

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RICHARDSVILLE GAS COMPANY, INC.)	
_____)	CASE NO. 2002-00311
)	
ALLEGED VIOLATIONS OF KRS 278.992)	
AND ADMINISTRATIVE REGULATION)	
807 KAR 5:022, SECTION 8(5))	

O R D E R

On September 11, 2002, an Order was issued to Richlandsville Gas Company, Inc. (Richlandsville Gas) requiring it to show cause why it should not be assessed penalties pursuant to KRS 278.990 and KRS 278.992 for violations of federal pipeline safety laws and Administrative Regulation 807 KAR 5:022, Section 8(5).

Pursuant to the request of Glenn Miller, President of Richlandsville Gas, an informal conference was held on October 11, 2002.

On October 16, 2002, Richlandsville Gas filed a document, which the Commission shall consider a motion, requesting the Commission to continue the formal hearing scheduled for October 22, 2002 and to schedule a second informal conference with Commission Staff 90 days after October 22, 2002. Richlandsville Gas states in its request for another informal conference that it needs time to complete compliance steps and to allow for a re-inspection by gas pipeline safety staff. In an Order dated October 17, 2002, the Commission continued the formal hearing and set an informal conference with Richlandsville Gas for November 21, 2002. Richlandsville Gas having shown good cause,

the informal conference with Commission Staff should be cancelled and be rescheduled by notice from Commission Staff at a later date.

Based upon further investigation by Commission Staff, it was found that the corporation operating the utility has been administratively dissolved, pursuant to KRS 271B.14-210, for failure to file annual reports. KRS 271B.14-210(3) provides that after a corporation is administratively dissolved, it may not conduct any business other than that necessary to liquidate its business. Technically, the corporation has not been authorized to conduct business since being administratively dissolved by the Kentucky Secretary of State on November 1, 1990. In Case No. 1990-00027, the Commission approved the sale of the assets and transfer of stock of Richardsville Gas from Virgil R. Spears and Polly T. Spears to Charles Wayne Miller and Preston Glenn Miller.¹ In its annual report for the year 2000, Richardsville Gas listed P. Glenn Miller as president and sole shareholder of the corporation. Under the alter ego theory, P. Glenn Miller may be personally liable for any civil penalties assessed for the violation of state and federal regulations as alleged in this case. United States v. WRW Corp., 778 F.Supp. 919, 924 (E.D. Ky. 1991). Therefore, Preston Glenn Miller should be made a party to this case.

The Commission's records show that Richardsville Gas and Preston Glenn Miller have failed to file with the Commission an annual report for the period ending December 31, 2001 as required by Administrative Regulation 807 KAR 5:006, Section 3(1).

The Commission's records further show that Richardsville Gas and Preston Glenn Miller have failed to pay the assessments, pursuant to KRS 278.130, for the years 1998, 1999, 2000, and 2002, each in the amount of \$50.00.

¹ Case No. 1990-00027, The Joint Application of Charles Wayne Miller and Preston Glenn Miller and Virgil R. Spears and Polly T. Spears (Order dated Feb. 22, 1990).

Based on its review of the Comprehensive Inspection Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Richardsville Gas and Preston Glenn Miller, jointly and severally, have failed to comply with the above-cited pipeline safety laws, statutes, and administrative regulations and concludes that the violations alleged herein should be considered with those concerning the probable violations described in our Order of September 11, 2002.

Therefore, the Commission HEREBY ORDERS that:

1. Preston Glenn Miller is made a party to this case.
2. Richardsville Gas and Preston Glenn Miller shall appear before the Commission for a formal hearing at the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, at a date and time to be set by the Commission, for the purpose of presenting evidence concerning the alleged violations as contained in the Comprehensive Inspection Report dated July 29, 2002, and of showing cause why Preston Glenn Miller, personally, should not be subject to the penalties prescribed in KRS 278.990(1) and KRS 278.992(1) for those alleged violations of pipeline safety laws, and for the purpose of presenting evidence concerning the alleged violations of KRS 278.130 and Administrative Regulation 807 KAR 5:006, Section 3(1) and of showing cause why Richardsville Gas and Preston Glenn Miller, jointly and severally, should not be subject to the penalties prescribed in KRS 278.990(1) and (3) for those alleged violations. A copy of the Comprehensive Inspection Report of Richardsville dated July 29, 2002, previously made a part of the record of this proceeding, is appended hereto.

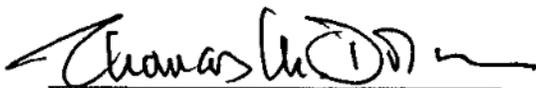
3. The informal conference scheduled for November 21, 2002 is canceled. Richardsville Gas and Preston Glenn Miller shall appear for an informal conference at the date and time scheduled by notice from Commission Staff at the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

4. Within 20 days of the date of this Order, Richardsville Gas and Preston Glenn Miller shall each submit to the Commission a written response to the allegations of failure to file an annual report ending December 31, 2001, as required by Administrative Regulation 807 KAR 5:006, Section 3(1), and failure to pay, pursuant to KRS 278.130, the annual utility assessments due on July 31, 1998; July 31, 1999; July 31, 2000; and July 31, 2002, each in the amount of \$50.00.

Done at Frankfort, Kentucky, this 1st day of November, 2002.

By the Commission

ATTEST:


Executive Director

APPENDIX TO AN ORDER OF THE
KENTUCKY PUBLIC SERVICE COMMISSION
IN CASE NO. 2002-00311
DATED November 1, 2002

COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

COMPREHENSIVE INSPECTION REPORT

RICHARDSVILLE GAS COMPANY, INC.
Bowling Green, Kentucky

July 29, 2002

BRIEF

Earl H. Alderman, Jr. conducted a comprehensive inspection of the natural gas facilities of Richardsville Gas Company, Inc. (Richardsville) on June 20, 2002. This inspection was conducted in accordance with the Public Service Commission's ("PSC") policy of inspecting all jurisdictional operators. Natural gas operators are jurisdictional to the PSC under KRS 278.040, 278.495, 278.992 and also through a 5(a) Agreement with the United States Department of Transportation, Office of Pipeline Safety, for the enforcement of the federal pipeline safety laws, 49 U.S.C. § 60101 et seq. and regulations promulgated thereunder.

INSPECTION

Richardsville is a privately owned, gas distribution system operating in Warren County, Kentucky, and serving approximately 50 customers.

A review was made of Richardsville s Operating and Maintenance, Emergency, Damage Prevention, Operator Qualification Plan and Anti-Drug Plans during the office portion of the inspection. Also during the office visit, records were reviewed concerning the leak survey, system patrolling, odorization, valve maintenance, and regulator and relief valves.

During the field inspection, checks were made on main line valves, residential and commercial meter settings and regulator stations.

Glenn Miller, President of Richardsville, assisted on this inspection.

FINDINGS

The following deficiencies were found:

1. No Operator Qualification Plan has been implemented. *49 CFR Part 192.809(a).*
2. There are no records for a leak survey. *49 CFR Part 192.723.*
3. No odorant testing has been done by instrument. *49 CFR Part 192.625.*

This is a repeat violation from the May 29, 1996 Comprehensive Report.

4. Meter testing is not current. *807 KAR 5:022, Section 8(5).* **This is a repeat violation from the May 29, 1996 Comprehensive Report.**

5. The Operation and Maintenance (O & M) plan needs to be updated. *49 CFR Part 192.605.*

6. The Emergency Plan needs to be updated. *49 CFR Part 192.615.*

7. The Damage Prevention plan needs to be updated. *49 CFR Part 192.614.*

8. The continuing education program has not been in the local newspaper as required. *49 CFR Part 192.616.*

9. Local contractors have not been notified of the damage prevention program. *49 CFR Part 192.614(c)1.*

10. There are no records showing that relief valve calculations have been reviewed. *49 CFR Part 192.743.* **This is a repeat violation from the May 29, 1996 Comprehensive Report.**

RECOMMENDATIONS

It is recommended that the Commission initiate a hearing to allow Richardsville to show cause why it should not be penalized for failure to comply with Commission regulations.

Respectfully submitted,

Earl H. Alderman, Jr.
Gas Utility Investigator

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